



FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 15, 25, 27 and 101

[WT Docket No. 20-443; GN Docket No. 17-183; DA 21-519; FR ID 27322]

Expanding Flexible Use of the 12.2-12.7 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of further extension of deadlines for filing comments and reply comments.

SUMMARY: In this document, the Commission denies the request of WorldVu Satellites Limited (ONEWEB), Kepler Communications, SpaceX Holdings, LLC, Intelsat License LLC, and SES S.A., for a further extension of the comment and reply comment deadlines for the proposed rule published in the *Federal Register*.

DATES: A further extension of the NPRM comment and reply comment deadlines, filed on April 26, 2021, was denied on May 4, 2021. The deadlines for filing comments and reply comments in this proceeding continue to be May 7, 2021, and June 7, 2021, respectively, as published at 86 FR 20111, April 16, 2021.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Madelaine Maior of the Wireless

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, WT Docket No. 20-443; GN Docket No. 17-183; DA 21-519, adopted and released on May 4, 2021. The full text of this document is available at <https://docs.fcc.gov/public/attachments/DA-21->

519A1.pdf. For a full text of the *NPRM* document,¹ visit the FCC’s Electronic Comment Filing System (ECFS) website at <http://www.fcc.gov/ecfs>. (Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.) Alternative formats are available for people with disabilities (braille, large print, electronic files, audio format), by sending an email to fcc504@fcc.gov or calling the Commission’s Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

I BACKGROUND

1. On January 15, 2021, the Commission released a *NPRM* seeking input on the feasibility of allowing flexible-use services in the 12.2-12.7 GHz band (12 GHz band) while protecting incumbents from harmful interference.² In response to an unopposed motion filed by CCIA, et al. for an extension of time to file comments and replies to the *NPRM*,³ the Wireless Telecommunication Bureau (Bureau) released an Order on March 29, 2021, allowing an additional 30 days to file comments and replies (*Extension Order*).⁴ The Bureau agreed with the parties that a 30-day extension was “warranted to provide commenters with additional time to prepare comments and reply comments that fully respond to the complex economic, engineering, and policy issues raised in the *NPRM*.”⁵ The Bureau, however, declined the 12 GHz Alliance’s

¹ *Expanding Flexible Use of the 12.2-12.7 GHz Band, Notice of Proposed Rulemaking, FCC 21-13*.

² See *Expanding Flexible Use of the 12.2-12.7 GHz Band, et al.*, WT Docket No. 20-443, Notice of Proposed Rulemaking, 36 FCC Rcd 606 (2021) (*NPRM*). The comment and reply comment deadlines were set at 30 and 60 days after publication in the Federal Register. Publication occurred on March 8, 2021, which made the original deadlines April 7, 2021, and May 7, 2021, respectively. See Federal Communications Commission, *Expanding Flexible Use of the 12.2-12.7 GHz Band*, 86 FR 13266, Mar. 8, 2021.

³ See Motion of Computer & Communications Industry Association (CCIA), INCOMPAS, Open Technology Institute at New America, and Public Knowledge for Extension of Time, WT Docket No. 20-443, et al., at 1 (filed Mar. 19, 2021) (*Extension Motion*).

⁴ See *Expanding Flexible Use of the 12.2-12.7 GHz Band, et al.*, WT Docket No. 20-443, et al., Order, DA 21-370 (WTB Mar. 29, 2021), 86 FR 20111, April 16, 2021 (*Extension Order*) (extended deadlines for comments and reply comments to May 7, 2021, and June 7, 2021, respectively).

⁵ *Extension Order* at para. 3.

request to suspend the deadlines until RS Access, LLC (RS Access) provided certain technical analyses, noting that such action might be rendered moot by the grant of the Extension Request.⁶

2. On April 26, 2021, the 12 GHz Alliance filed a request for a further extension of the comment and reply comment deadlines (Further Extension Request)⁷ stating that, as previously explained, “the submission of the RS Sharing Studies is a gating criteria with respect to the ability of satellite stakeholders to prepare meaningful comments and that absent [that submission] a further extension of the comment cycle may be required.”⁸ The 12 GHz Alliance notes that in the *Extension Order*, the Bureau “hoped that this issue would ‘be rendered moot’ by the extension of the comment cycle.”⁹ The Further Extension Request has received both opposition¹⁰ and support.¹¹

3. RS Access opposes the Further Extension Request, which it views as claiming that RS Access is somehow obliged to file comments before the deadline for initial comments.

RS Access states that it “is preparing comments in anticipation of the May 7, 2021 deadline for

⁶ *Extension Order* at n.6 citing Letter from Ruth Pritchard-Kelly, Senior Advisor, ONEWEB, *et al.* (“12 GHz Alliance”) to Marlene H. Dortch, Secretary, FCC, at 1 (Mar. 23, 2021). The 12 GHz Alliance is WorldVu Satellites Limited (“OneWeb”), Kepler Communications, SpaceX Holdings, LLC (“SpaceX”), Intelsat License LLC, and SES S.A. *See, e.g.*, March 23, 2021, letter at 1.

⁷ *See* Letter from Ruth Pritchard-Kelly, Senior Advisor, ONEWEB, *et al.* (“12 GHz Alliance”) to Marlene H. Dortch, Secretary, FCC, at 1 (Apr. 26, 2021) (Further Extension Request).

⁸ Further Extension Request at 1-2 (citing Letter from Ruth Pritchard-Kelly, Senior Advisor, ONEWEB, *et al.*, (“12 GHz Alliance”) to Marlene H. Dortch, Secretary, FCC, at 1 (Mar. 23, 2021)).

⁹ Further Extension Request at 1-2 quoting *Extension Order* at n.6.

¹⁰ Letter from Trey Hanbury, Counsel to RS Access LLC (RS Access), to Marlene H. Dortch, Secretary, FCC, WT Docket No. 20-443, *et al.*, at 2 (filed Apr. 28, 2021) (RS Access Opposition); Letter from Chip Pickering, CEO, INCOMPAS, *et al.*, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 20-443, *et al.*, at 2 (filed Apr. 28, 2021) (5G for 12GHz Coalition Opposition) (calling themselves the “5G for 12GHz Coalition”, the Opposition filers include INCOMPAS, Public Knowledge, DISH, Computer & Communications Industry Association (CCIA), RS Access, Open Technology Institute at New America, Federated Wireless, AtLink, Cambridge Broadband Networks Group Ltd. (CBNG), Center for Education Innovations (CEI), Center for Rural Strategies, Etheric Networks, GeoLinks, Go Long Wireless, Granite Telecommunications, mmWave Tech, Resound Networks, Rural Wireless Association (RWA), Tel Net Worldwide, Tilson, White Cloud Technologies, Xiber and X-Lab).

¹¹ *See* Letter from David Goldman, Director of Satellite Policy, Space Exploration Technologies Corp. (SpaceX), to Marlene H. Dortch, Secretary, FCC, WT Docket No. 20-443, *et al.*, at 2 (filed Apr. 28, 2021) (“SpaceX and the 12 GHz Alliance have previously explained that RS Access’s failure to submit the Secret Studies into the record deprives other 12 GHz Band stakeholders the opportunity to review, analyze, and meaningfully respond to the Secret Studies in the comment cycle established by the Commission.”) *See also* Letter from David Goldman, Director of Satellite Policy, Space X, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 20-443, *et al.*, at 1 (the 12 GHz Alliance “reasonably requested an opportunity to review these studies as part of the normal comment cycle,” at 2 (“to promote fairness and a fully considered record, RS Access should at least provide a schedule for the submission of the Secret Studies into the record.”) (filed Apr. 30, 2021).

initial comments, which will include a coexistence study demonstrating the feasibility of sharing between co-primary systems in the 12.2-12.7 GHz band.”¹² The 5G for 12GHz Coalition also opposes the Further Extension Request, arguing that it is inappropriate because the Bureau dismissed this same request in the *Extension Order*.¹³

4. The Commission denies the Further Extension Request. As set forth in § 1.46 of the Commission’s rules,¹⁴ the Commission does not routinely grant extensions of time for filing comments in rulemaking proceedings. In this proceeding, the Bureau has already granted a 30-day extension of comment and reply deadlines to allow parties additional time to develop submissions that address complex issues raised in the *Notice*.¹⁵ Because a further extension of time would only delay receipt of these comments and parties will have time to reply to these submissions, the Commission is not persuaded that such an extension is warranted. To the extent that members of the 12 GHz Alliance have input on whether filings in the comment stage demonstrate the feasibility of sharing in this band, they may submit such input at the reply stage and in subsequent *ex parte* presentations. The Commission therefore denies the Further Extension Request. The deadlines for filing comments and reply comments in this proceeding continue to be May 7, 2021, and June 7, 2021, respectively.

II. ORDERING CLAUSE

5. Accordingly, IT IS ORDERED that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 0.131, 0.331, and § 1.46 of the Commission’s rules, 47 CFR 0.131, 0.331, and § 1.46, the Further Extension Request filed by WorldVu Satellites Limited (ONEWEB), Kepler Communications, SpaceX Holdings, LLC,

¹² RS Access Opposition at 1. “The satellite licensees, of course, remain free to prepare their own technical analyses purporting to show that their systems are incapable of sharing with mobile licensees in the band. The satellite licensees can submit their comments and studies either in the initial round of filings due May 7, 2021, or as a response to the submission of RS Access and other interested parties during the reply round that will follow 30 days later, or both.” *Id.* at 1-2 (footnote omitted).

¹³ 5G for 12GHz Coalition Opposition at 2.

¹⁴ 47 CFR 1.46.

¹⁵ *Extension Order* at para. 3.

Intelsat License LLC, and SES S.A., on April 26, 2021, IS DENIED.

Federal Communications Commission.

Amy Brett,

Acting Chief of Staff,

Wireless Telecommunications Bureau.

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